

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 William Coney,

4 Plaintiff

5 v.

6 Michael Lozo, et al.,

7 Defendants

Case No. 2:23-cv-01645-CDS-EJY

**Order Adopting Report and
Recommendation and Closing Case**

[ECF No. 23]

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9 After screening pro se plaintiff William Coney's complaint, Magistrate Judge Elayna J. Youchah issued an order dismissing Coney's First Amendment freedom of speech and retaliatory
10 arrest claims; Fourth Amendment claims for excessive force, false arrest, and false reporting;
11 Fourteenth Amendment due process, double jeopardy, and equal protection claims against Lozo
12 and Mariscal; and his malicious prosecution claim against Lozo and Mariscal without prejudice
13 and with leave to amend. Order and R&R, ECF No. 9.

14
15 Judge Youchah also recommended that the remaining claims be dismissed with prejudice
16 as amendment would be futile. *Id.* Because that order was returned as undeliverable (Notice,
17 ECF No. 11), I instructed the Clerk of Court to distribute a copy of the order to Coney's new
18 address (Notice of change of address, ECF No. 10¹) and sua sponte extended Coney's time to file
19 any objections. Order, ECF No. 16. Coney timely filed objections to the R&R. Obj., ECF No. 18. I
20 overruled the objections and gave Coney the opportunity to file an amended complaint by June
21 10, 2024. Order, ECF No. 19. I warned Coney that failure to file an amended complaint by that
22 date would result in dismissal of this case. *Id.* at 8. That order was also returned as undeliverable
23 (Notice, ECF No. 20) so Coney was ordered to update his address (Order, ECF No. 21). That
24 order advised Coney that if he failed to update his address, the Court would recommend
25 dismissal of this action. *Id.* That order was also returned as undeliverable. Notice, ECF No. 22.
26 Consequently, Judge Youchah issued a second R&R, noting that Coney had not filed an

¹ Coney notified the court that he was moved from Clark County Detention Center to High Desert State Prison (HDSP).

1 amended complaint and that each of the court's orders had been returned by the U.S. Postal
2 Service as undeliverable, and recommending that this matter be dismissed in its entirety. R&R,
3 ECF No. 23. This order was also returned as undeliverable. Notice, ECF No. 24.

4 Coney has failed to file an amended complaint and has not taken any action in this case
5 since March 2024. Coney did not file any objections to that R&R and the time to do so has
6 passed. *See* Fed. R. Civ. P. 72(b)(2). The Ninth Circuit has recognized that a district court is not
7 required to review a magistrate judge's R&R where no objections have been filed. *United States v.*
8 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

9 Coney has seemingly been released from HDSP because orders mailed to him have been
10 returned as undeliverable. But Coney failed to immediately file a written notification of any
11 change of mailing address as required by Local Rule IA 3-1. And "[f]ailure to comply with [Local
12 Rule IA 3-1] may result in the dismissal of the action, entry of default judgment, or other
13 sanctions as deemed appropriate by the court." LR IA 3-1. Further, it is well established that
14 district courts have the authority to dismiss an action based on a party's failure to prosecute,
15 failure to obey a court order, or failure to comply with local rules. Fed. R. Civ. P. 41(b); *Ghazali v.*
16 *Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Malone v.*
17 *U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court
18 order). Dismissal is warranted here because Coney not only failed to comply with Judge
19 Youchah's orders, but he also failed to comply with Local Rule IA 3-1 and there remains no
20 operative complaint in this action. Accordingly, I adopt the second R&R in its entirety and
21 dismiss this action without prejudice.

22 Conclusion

23 Therefore, the R&R [ECF No. 23] is adopted in full. The Clerk of Court is kindly
24 directed to enter judgment accordingly and to close this case.

25 Dated: September 9, 2024

26 
Cristina D. Silva
United States District Judge